

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION

JAMES JENKINS, on behalf of)
himself and all other similarly)
situated individuals)
v.) Civil Action
EQUIFAX INFORMATION SERVICES, LLC) No. 3:15CV443
October 28, 2016
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COMPLETE TRANSCRIPT OF FAIRNESS HEARING
BEFORE THE HONORABLE M. HANNAH LAUCK
UNITED STATES DISTRICT JUDGE

APPEARANCES:

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UNITED STATES DISTRICT COURT

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1 (The proceedings in this matter commenced at
2 2:00 p.m.)

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4 THE CLERK: Civil action 15CV443, James
5 Jenkins, et al. versus Equifax Information Services,
6 LLC.

7 Mr. Leonard A. Bennett, Mr. James C. Francis,
8 Ms. Kristi C. Kelly, and Mr. Matthew J. Erasquin
9 represent the plaintiffs.

10 Ms. Phyllis B. Sumner, Mr. John W.
11 Montgomery, Jr., and Mr. Zachary A. McEntyre represent
12 the defendant.

13 Are counsel ready to proceed?

14 MR. BENNETT: The plaintiffs are, Your Honor.

15 MS. SUMNER: We are, Your Honor.

16 THE COURT: All right. We're here for the
17 final approval hearing. So I'll hear from you, Mr.
18 Bennett.

19 MR. BENNETT: Thank you, Judge.

20 Good afternoon, Your Honor. May it please
21 the Court. We move for final approval of the
22 settlement that this court has already had an
23 opportunity to vet really, I would say, ex parte, that
24 is, were no objectors at that time. Since that point
25 there have been rounded to roughly 10 objectors. Of

1 those, in our papers, we pointed out that a couple of
2 them have confirmed to us but not formally that they
3 do not press their objection, but given the
4 opportunity to appear here today, and the fact that no
5 objector has, we are confronted just with the written
6 objections that the Court has before it.

7 Two of the individuals were either attorneys
8 or attorney-drafted acknowledged. Mr. Bezer, Adam
9 Bezer, represents that he had help writing his, and
10 it's actually, I think, a solidly drafted objection
11 for a pro se.

12 And Mr. Sweeney, as well, is himself an
13 attorney. We have not had personal contact with any
14 of those individuals.

15 We also have not had personal contact with
16 Mr. Donahue, who's one of the other more vocal
17 objectors. We have attempted to have personal contact
18 with every other individual, particularly those, the
19 majority of these, who criticized Equifax or the
20 credit reporting industry or the public records
21 generally to try to explain their circumstance, and
22 not simply to deal with their objection, but to make
23 sure they knew of other rights and remedies that they
24 had under the Fair Credit Reporting Act.

25 And that is what this case is largely about.

1 This case was an attempt, successful attempt, by this
2 plaintiffs' team over a course of four cases over
3 multiple years, this one filed in July of '15, and
4 others long preceding, to get all three credit
5 reporting agencies to empower consumers with the
6 knowledge that their public records came from someone
7 other than the courts. They came in this case, in all
8 instances, from LexisNexis, and to enable those
9 consumers to make direct objections as appropriate to
10 LexisNexis, and to enforce their rights under federal
11 law knowing who the defendant is and should be, to
12 Equifax's credit, which I can say now that we're in
13 settlement posture. We're all friendly now, but a
14 significant number of the public record errors that
15 occur in credit reporting are caused by the
16 transposition or the reading or evaluation of those
17 records by LexisNexis. And the credit reporting
18 agencies have a relationship with LexisNexis that will
19 continue past this and the other cases, but consumers
20 do not. They are not like Bank of America or a
21 mortgage company where the consumer knows who to go
22 to.

23 There are rights under the Fair Credit
24 Reporting Act even if plaintiff lawyers can't make
25 money because there's no private cause, 1681S-2A,

1 against furnishers. Consumers have a right to make
2 direct disputes. Consumers have a right to demand
3 certain information from furnishers directly. This
4 settlement empowers them to do that. It does not
5 disempower. It does not take from consumers the right
6 to enforce other remedies under the statute.

7 The release here, as the Court may recall and
8 as our papers point out, releases practically,
9 functionally nothing by the class. The only release
10 is the right to bring this exact claim again as a
11 class action, which under 1681(b)(2), I'm sorry, under
12 Rule 23(b)(2) is more than appropriate.

13 We have an injunctive relief order that we
14 have proposed. We have changes that are to be made.
15 And the ability to bring a class for the exact same
16 fact pattern is not something that any of the
17 objectors have raised a concern about. Everyone that
18 has raised a concern about giving something up
19 incorrectly believed that they were giving up their
20 right to prosecute a claim against Equifax for
21 inaccuracies or to do something against whoever
22 reported a public record.

23 So in this case, our greatest achievement is
24 probably not just the injunctive relief, it is
25 probably the narrow release that we have. It is as

1 narrow a release as we've been able to negotiate in
2 any one of my major class actions opposed by quality
3 defense counsel. And we have that here. And we
4 accomplished that narrow release.

5 We, in exchange for giving up the ability to
6 bring this same fact pattern, which no one other than
7 these firms have prosecuted before, the class has an
8 opportunity to activate, without a claim, 18 months of
9 credit monitoring, a product that I advocate publicly.
10 A product that is sold at a retail price of just shy
11 of \$15, and for 18 months without adding a credit
12 card, without any ability of Equifax to reactivate for
13 the 19th month.

14 Class members have not just assess to a
15 credit report, but assess to credit reports at every
16 minute of the day. If they get up in the middle of
17 the night and they have a nightmare and they want to
18 check their credit file, they can do it.

19 As they work through and progress to change
20 their credit reporting, if there's anything wrong with
21 it, they can constantly upgrade and check and update.
22 In addition, they can obtain the scores, which are not
23 permitted or not free under federal law. Any consumer
24 has to pay for those. They are free to these class
25 members, to 3 million class members.

1 In addition, there's other benefits. There's
2 identity theft insurance. I don't want to speak too
3 poorly of my opponent here now that we're less than
4 adversary at this one moment, but these class members
5 with this product, Judge, will have a direct contact
6 at Equifax. We'll have somebody -- as part of that
7 product, if you were to buy the service for the \$270
8 subscription, you actually get a direct contact at
9 Equifax, not someone overseas, and not a robotic
10 computer or otherwise. And so it is a valuable
11 product, and it is a product that is provided to class
12 members in exchange for almost no release at all.

13 The settlement occurred as contentiously as
14 any of them have with Equifax. You have a bunch of
15 lawyers that essentially make their living prosecuting
16 consumer claims against this defendant. We were in
17 front of a retired Eleventh Circuit Court of Appeals
18 Judge on multiple exchanges for settlement, but
19 multiple mediations in Atlanta, and we accomplished,
20 in my view, what is an excellent settlement. It is
21 certainly the best that we believe we could get, but
22 independent of that, in our view, was well past the
23 point when we thought when we started the case that's
24 what we want to accomplish.

25 The alternative --

1 THE COURT: Can I interrupt you just briefly,
2 Mr. Bennett?

3 MR. BENNETT: Yes.

4 THE COURT: There are a couple references in
5 your filing to an Eleventh Circuit retired judge, but
6 also to Rodney Max, mediation with Rodney Max.

7 MR. BENNETT: We did not have a mediation
8 with Rodney Max.

9 THE COURT: So that is in error.

10 MR. BENNETT: That is in error.

11 THE COURT: It's Stanley Birch, correct?

12 MR. BENNETT: It is Stanley Birch.

13 THE COURT: So whenever you refer to Rodney
14 Max, which I think is twice, you meant Stanley Birch?

15 MR. BENNETT: We did. Although, the Court is
16 aware of the companion or similar case, the *Clark vs.*
17 *Experian* matter, where we prosecute the same fact
18 pattern, and that is mediated by Rodney Max, which has
19 nothing to do with this case other than an explanation
20 for how Rodney Max might be in a drafter's brain.

21 THE COURT: All right.

22 MR. BENNETT: But we did have Stanley Birch.
23 I will say that Rodney Max, had he been the mediator,
24 is pretty exceptional as well.

25 In this case, Judge, the Court is required to

1 make a decision as to the *Jiffy Lube* standard of
2 whether the settlement is reasonable and adequate, and
3 whether it's fair. The first is substantive. The
4 second is process. I've covered both categories.

5 As far as the process, the fairness, the
6 fairness here is that you had an informed set and a
7 knowledgeable set of attorneys seeking to represent
8 the class that know this field.

9 I don't mean to appear arrogant, but those
10 three lawyers alone, they are more published in
11 complex FCRA litigation than anyone else in the
12 country or any other firm in the country as well. And
13 I think that we've done -- I have done a good job of
14 prosecuting such cases myself.

15 You have a long history of litigation where
16 we know where the bodies were buried. We knew the
17 documents, what evidence we would need for class
18 certification. It was no missing information. Even
19 the specific data, the numbers of class members, and
20 the ability to prove and identify those class members,
21 we obtained.

22 As to other elements of fairness, we had an
23 impartial mediator, a well-respected federal jurist, a
24 retired jurist.

25 The issue of attorney's fees was actually a

1 totally separate mediation. I will come before you
2 and hopefully 100 percent of the time in my career I
3 will be able to say we refused to negotiate attorney's
4 fees until we had a handshake on every other term.

5 Here I can say not only that, we even do it
6 in the same month. It was after we had settled
7 everything else we came back for a separate mediation,
8 and it's not simply a pretend or feigned threat. I
9 have settled, my firm has settled, class cases in this
10 courthouse where we agreed to prosecute our fees by
11 separate fee petition, and have done so. And we
12 certainly would have done it here, and the defendant
13 would have opposed, and we would have argued that
14 we've given 3 million people \$270 of value, and we
15 want a much higher fee.

16 The defendant would argue all that it may,
17 but at the end of the day we faced uncertainty, and so
18 did Equifax, and we agreed to the 2.8 million ceiling.
19 It is all paid by Equifax, and it includes all of our
20 costs.

21 The first *Jiffy Lube* question is reasonable
22 and adequate. And that, of course, I've addressed.
23 It's a balance between what the class is giving up and
24 what the class gets. And the class gets significant
25 injunctive relief. Every one of these individuals

1 that would have a problem with their public record now
2 has a path to do something about it. The relief of
3 the credit monitoring product.

4 In addition, merely sending the notice to
5 3 million people and giving them the phone number on
6 the website of our, all of them are relatively small,
7 law firms, and staffing all of the calls to help
8 people with everything from how do I get this judgment
9 off my record to tell me about the settlement was
10 consideration itself. These folks have learned about
11 their rights in a way they might not have before, and
12 they all now know that LexisNexis is the furnisher.

13 The settlement, Judge, we think is fair. I
14 would like to answer any particular questions the
15 Court may have as to objections and separately argue
16 our attorney's fees.

17 THE COURT: All right.

18 MR. BENNETT: Do you have any questions for
19 me now?

20 THE COURT: The questions I had I asked about
21 the nature of the mediator. And the objections,
22 you're resting on what you filed in your papers; is
23 that correct?

24 MR. BENNETT: That is correct, Judge.

25 THE COURT: All right. So I have reviewed

1 everything. Okay. Thank you.

2 MR. BENNETT: May I argue attorney's fees or
3 would you like to hear the other side?

4 THE COURT: I would like to give Ms. Sumner
5 an opportunity to present whatever she wishes, and
6 then we can talk about fees.

7 MS. SUMNER: Good afternoon, Your Honor.

8 THE COURT: Good afternoon.

9 MS. SUMNER: I would just simply say, Your
10 Honor, that we are in agreement as to the
11 reasonableness and the fairness of the settlement, and
12 I do want to underscore that this was a long,
13 negotiated process. We had many conversations
14 pre-mediation. We had many conversations about the
15 information, about what discovery would look like.
16 Both parties knew full well where we were headed if we
17 went into litigation, and it would have been prolonged
18 and hotly contested because I think Your Honor knows
19 Equifax's position about this.

20 We do think that this is a technical issue.
21 We believe that Equifax has been in compliance with
22 the law, but we recognize that plaintiffs' theory, we
23 would have some risk in proceeding forward and
24 determined that we would take the steps to make an
25 operational change. And, as you know, that is no easy

1 thing for a company of Equifax's size that manages the
2 amount of data that it does on a daily basis to agree
3 to make a change. And it in fact did that and that
4 process is something that is in the works. We have 90
5 days after your approval in order to implement that,
6 and our goal is to try to get that accomplished by the
7 end of this year.

8 So that is a significant benefit that the
9 class members are receiving in terms of injunctive
10 relief. And then, of course, we do believe and agree
11 with Mr. Bennett that the credit monitoring service is
12 a significant benefit, and we've already seen that
13 there are a large number of class members who have
14 indicated by returning their email addresses that they
15 are interested in receiving that product. And we are
16 also leaving that opportunity open so they have more
17 time to take advantage of that product as well.

18 So, Your Honor, I am happy to answer any
19 questions. There was one objector, Mr. Donahue, who
20 made some allegations with respect to defense counsel.
21 I'm happy to address that if you would like me to do
22 so. He is the one who wanted, I think, both
23 plaintiffs' counsel and defense counsel to contribute
24 to his wardrobe allowance to allow him to attend the
25 fairness hearing here in person. We filed a very

1 brief response to his objection. I'm happy to answer
2 any questions that you may have.

3 THE COURT: I have read through his
4 objections and the others, and unless you have
5 anything to add, I don't have any questions about
6 that.

7 MS. SUMNER: No, Your Honor.

8 THE COURT: All right.

9 MS. SUMNER: Thank you.

10 THE COURT: Let me just be clear that it's
11 the case that if this settlement is approved, and a
12 consumer seeks the credit monitoring, they can have it
13 for 18 months; is that right?

14 MS. SUMNER: That's correct, Your Honor.

15 THE COURT: But the option to consider that
16 is open for six months; is that correct?

17 MS. SUMNER: That's correct.

18 THE COURT: And their option to keep it open
19 for six months, how do they find that out, you know,
20 so they have time to decide?

21 MS. SUMNER: Well, that's indicated in the
22 information that they have.

23 THE COURT: Okay. I just wanted to be sure.

24 MS. SUMNER: Yes.

25 THE COURT: All right. Thank you.

1 MS. SUMNER: Thank you.

2 MR. BENNETT: Judge, if I could follow-up to
3 Ms. Sumner's point.

4 In addition, for those consumers for whom we
5 have a valid email address, which is not quite half
6 but is a significant number, a second notice is
7 actually going out. In addition to that, all of our
8 offices on the plaintiffs' side are fully staffed.
9 All of our individuals are trained. We took these
10 calls ourselves. They spoke to lawyers. They
11 escalated up the chain. So if they just said, "How do
12 I get a printout copy of this?" or "Can I get a copy
13 of my credit report non-electronically?" then those
14 were routine issues that our paralegals would work
15 out. It escalated all the way up to "I have a problem
16 with my credit report," in which case our commitment
17 is that we would try to help them resolve it without
18 putting on our plaintiff's contingency hat, and we
19 continue to do that, and we will be doing that here on
20 out. I'm on the record in writing saying it and you
21 have me here.

22 One of the objectors suggests, I believe
23 Mr. Sweeney, suggests that, even though it's
24 unconventional, that the Court not approve the fee or
25 allow for the payment of the fee until the end of the

1 case to show we've done our job.

2 The two problems with that are, No. 1, we
3 will do our job, and we will report back to the Court
4 as we have in all our class cases about any anomalies
5 or problems or otherwise. And, second, a case like
6 this isn't going to be over for many, many years.
7 These are individuals that all now know that Len
8 Bennett's office, (757)930-3660, you call if you have
9 a problem with your credit report. And given that
10 we're not taking these cases as a fee generator, that
11 public service is paid for if our fee is approved, but
12 it is also a fairly wieldy or often unwieldy part of
13 what we do, and we will continue to make our best
14 efforts to do that.

15 With respect to the attorney's fees, one
16 thing I didn't point out, Judge, in following up with
17 that is the notice process. So here we had good email
18 addresses both from Equifax and the contacts of people
19 who had contacted Equifax that way, and then
20 purchasing them from LexisNexis in the class
21 administration process. For those individuals either
22 had emails kicked back or from whom we couldn't get a
23 valid email, they all received a mailed notice. Then
24 you also had, although I think that the settlements
25 we'll put in front of you, we always see this, but

1 maybe some others maybe you won't, and you should ask
2 this question, is there has to be a follow-up so that
3 when you get this big chunk of mail back about a week
4 after your first mailing, some of the envelopes will
5 say "no address found" and some will say because the
6 forwarding order has expired "here's the new address,
7 but we're not forwarding it."

8 So in this instance, we did address scrubs
9 for the no-address available. And, unfortunately,
10 only about 21,000 out of 100,000 roughly rejected mail
11 had new addresses that we could find by purchasing
12 them. And then we found -- we forwarded all of the
13 forwarding address-expired folks. And so we had all
14 of that -- we had really three levels of boots and
15 suspenders notice in addition to the Internet
16 publication of this new quick enough to Google Equifax
17 class action now or Jenkins, the class website is
18 there, and has the information that we've already put
19 in our papers.

20 With respect to the attorney's fees, Judge,
21 the *Barry* case, if the Court has not blocked it out of
22 its institutional memory, was a case that this Court
23 at the magistrate level considered and vetted for
24 approval before we then took it to Judge Spencer, and
25 then took it to the Fourth Circuit, and then took it

1 to the United States Supreme Court. Judge Spencer and
2 the Fourth Circuit issued opinions rejecting
3 objections to the attorney's fees, amongst other
4 things. The Supreme Court issued a one-line order
5 "not granting cert."

6 We've cited in the block quote what I think
7 to be from the *Barry* notebook at document No. 64, page
8 28, the Fourth Circuit's consideration of a fee that
9 in a 1681(b)(2) (b)(3) hybrid case where there was a
10 limited release, and in that case they released
11 statutory damages. Here we don't. But in that case,
12 they as well released the class action remedy. The
13 attorney's fee was sought. It was to be paid entirely
14 by the defendant. LexisNexis there. It was
15 negotiated independent and after the class relief, and
16 the Fourth Circuit analyzed the applicability of a
17 multiplier, the permissibility of a multiplier over
18 lodestar. And, of course, the Court has read the
19 block quote at Note 10, but in *Barry*, the Court
20 approved the multiplier.

21 The Fourth Circuit overruled or rejected the
22 objections to that. And a couple of the reasons
23 supported it. Number one, obviously it was to be paid
24 entirely by the defendant. So there was no tradeoff
25 between class and -- which is the Court's really

1 fiduciary charge to protect. And, second, the fee was
2 negotiated separate and independent and after so that
3 the Court didn't have any basis and shouldn't and
4 certainly in either of these cases to believe that
5 there was any quid pro quo, that we would negotiate
6 low now because later on they would give us a break on
7 something else.

8 In this case, it's even more than *Barry*. I
9 don't know how given what we were attempting to
10 negotiate there could have been such a tradeoff
11 because there wasn't the cash component, and there's
12 not a release of cash-based monetary claims. But we
13 believe the fee, Judge, if just 5 percent of the class
14 activates just the monetary relief, not trying to
15 value we make the world a better place, the esoteric
16 part of the relief, just the credit monitoring at
17 5 percent, our fee would be less than 10 percent of
18 that economic value.

19 And it is already just amongst individuals
20 that have already sought to activate affirmatively
21 reaching out even though it's prior to the deadline,
22 the approval, and they haven't received the second
23 notice, itself would be far less than the 25 percent
24 that is customary in comparing the monetary value to
25 the fee.

1 We have worked to date for all of us quite a
2 good deal. You've seen the fees. They are in excess
3 of \$500,000 in total time over the year and a half in
4 this case and the related time just for Equifax prior.
5 But we will have a significant lodestar moving
6 forward.

7 If the Court asked me in a year whether or
8 not I thought this was such a great deal, maybe I
9 won't say so. But we're committed, we're on the
10 record, and we've proven, all of us, in our track
11 record of our public interest in helping consumers
12 with these types of problems. So we are bound by it
13 and our lodestar will only continue to grow where our
14 fee will not.

15 I don't have anything else unless the Court
16 has any questions.

17 THE COURT: No. I well remember the *Barry*
18 case, and I have reviewed your fee petitions, and
19 everything that you have set forth in your filings,
20 and I'm aware of where you all stand on the matter.

21 MR. BENNETT: Yes, Your Honor.

22 THE COURT: So I'll hear -- to the extent Ms.
23 Sumner wants to put anything on the record, I'll hear
24 from her.

25 MS. SUMNER: Your Honor, my only comment is

1 that these were fees that we negotiated. I can say
2 that certainly Equifax was looking to pay less fees
3 and plaintiffs' counsel were looking to receive more
4 fees, and after spending quite a bit of time
5 negotiating this and looking at the value of the
6 settlement to the class members, this was an agreed
7 amount and appropriate under the circumstances. So we
8 support the request at this point and have agreed to
9 pay that amount.

10 I do want to make one clarification just
11 because I want to be precise in terms of what I said
12 to you about the six-month window. That's not in the
13 actual notice. It does -- the notice itself reflects
14 that they will receive an email activation code that
15 they can use to sign up for 18 months, and that if
16 they already have a subscription, that they can extend
17 it for another 18 months. So we will check to make
18 sure that that six-month window is apparent in the
19 website, but it's not in the actual notice itself. So
20 I just wanted to be clear since I had commented on
21 that six-month window previously.

22 THE COURT: All right.

23 MS. SUMNER: Thank you.

24 THE COURT: Mr. Bennett.

25 MR. BENNETT: Yes, Judge. I'm an agreeable

1 person in court. I try to be. Defense lawyers
2 sometimes see a different side of me that -- and this
3 particular issue maybe we should reveal to the Court.
4 My concern once we received the Sweeney objection, the
5 Donahue objection, which talked about the time, 30
6 days is more than the law. The law has recognized it.
7 But there were a series of hot emails from me seeking
8 in communications, and I say to the Equifax's credit,
9 it agreed to extend the period of time, the six-month
10 period. It agreed to permit anyone who opted out or
11 objected through today or through fairness 2(b) opted
12 out, and the objections the Court could consider as
13 untimely, but it was agreed, and I appreciate
14 Equifax's handling of that, but the Court should know
15 it was additional consideration. The negotiations
16 between the parties continued aggressively even over
17 the last 30 days. It was not -- we say nice things
18 about each other here, and I think very well of my
19 defense opponents, but we were not simply singing
20 *Kumbaya* throughout this whole process completely on
21 the same page. We were still contesting one another's
22 positions.

23 THE COURT: All right.

24 MS. SUMNER: I will affirm that, Your Honor.

25 THE COURT: All right. I have no doubt,

1 given the length of negotiations and the number of
2 proceedings I've seen, and the counsel who sit in the
3 courtroom.

4 Obviously, I want to confirm there are
5 individuals in the courtroom. Are there any objectors
6 in the courtroom today? Obviously, there are folks in
7 the well of the courtroom, but I don't see anybody
8 standing to indicate that he or she is an objector to
9 the settlement.

10 I do want to address the objections, and I'm
11 going to address them and ask you all to confirm
12 whether or not you think I've addressed what I need to
13 address about these objections that have been filed.

14 The first is with respect to Mr. Sean
15 Donahue. Mr. Donahue, I would say that the consistent
16 theme of his objection is that the settlement is meant
17 to or should compensate class members for damage to
18 their credit, and he takes issue with the fact that
19 the settlement class members are said to receive only
20 injunctive relief and a service valued at \$269.10.
21 Essentially, it appears that his theory is that the
22 settlement class members will not receive monetary
23 compensation because in some respect, class counsel
24 has manipulated the settlement so that it benefits the
25 attorneys in terms of fees at the expense of the class

1 members themselves.

2 He also appears to suggest that, frankly,
3 presuming that Sean is a man, he suggests that class
4 counsel has misled class members about their
5 opportunity to object, and then he is seeking
6 compensation so that he can present his objection in
7 an appropriate manner.

8 First, he suggests that the notice was mailed
9 late and omitted any reference to the class member's
10 right to object. I'm going to address the
11 appropriateness of the notice later, and I find that
12 it was an adequate notice, but Mr. Donahue appears to
13 misapprehend the nature of the notice itself. It's
14 clear that it indicates that a potential class member
15 could provide Equifax a valid email address in order
16 to obtain the free credit monitoring. It gives an
17 indication of a website, and it also offers a more
18 complete notice and other important documents. And,
19 importantly, it also gives a direct phone number where
20 you can call to get the necessary information.

21 The website itself explains that the class
22 members may object or exclude themselves from
23 settlement. And I do find that the notice to object
24 is readily accessible to the class members, and any
25 additional notice would not be necessary and would

1 incur undue expense in that it would be superfluous.

2 He suggests, Mr. Donahue, that the notice
3 values the Equifax service at \$270 while it's really
4 only worth \$269.10, suggesting that he would drop his
5 objection with respect to this defense in exchange for
6 either \$100,000 cash or an award to him that equals
7 the sum of 90 cents per class member.

8 He also suggests that he is offering to
9 become a class representative but has reservations
10 about the \$5,000 proposed service award and seeks
11 something closer to \$50,000 for all the class
12 representatives, including himself. That also is
13 denied.

14 The members, the injunctive relief that has
15 been negotiated for the reasons that I will say in a
16 full and fair fashion, adequate fashion, by the
17 parties is not meant to be transferred into a monetary
18 value. He does not present any persuasive argument as
19 to why any class members or he should receive the
20 additional 90 cents simply because the notice cited an
21 even number with respect to the value of the service.
22 And, importantly, if Mr. Donahue believes that he has
23 suffered actual damages, the release in this class
24 does not preclude him from pursuing such relief. That
25 really is the largest aspect of what makes this class

1 a full and fair settlement on behalf of each member,
2 which is that it gives them the advantage of this
3 non-monetary value of injunctive relief and they give
4 up nothing as far as individual causes of action.
5 Clearly, they give up an opportunity for a second
6 duplicative class, which is, frankly, not giving up
7 much relative to what an individual member could give.

8 It appears that he is suggesting a
9 court-funded stenographer for purposes of the toll
10 free telephone messages to be transcribed and
11 submitted to the Court. I'm denying that request.
12 There's really no basis for it; the content that he
13 has suggested needs to be transcribed.

14 As far as their participation in it, it is
15 available to any class members if they wish to call up
16 the number and find out the information on it.

17 He has sought sanctions both against class
18 counsel and defense counsel. He suggests that with
19 respect to class counsel that sanctions include their
20 removal from the case. For the reasons that I'm going
21 to indicate that I am going to approve this proposed
22 settlement and for the reasons that I've already
23 articulated with respect to the preliminary approval
24 hearing, class counsel certainly has provided adequate
25 representation, and that finding was made in great

1 detail under Federal Rule of Civil Procedure 23(g),
2 and I will make later findings with respect to the
3 amount of work dedicated to the settlement reached as
4 well as class counsel's competency in like matters.

5 Simply put, Mr. Donahue's personal
6 dissatisfaction with the settlement is no basis to
7 levy sanctions against class counsel, which I am
8 finding not a great basis for his personal
9 dissatisfaction in any event.

10 With respect to defense counsel, he also
11 appears to seek sanctions because there is some basis
12 for a finding that this settlement was favorable to
13 Equifax and somehow that they held some duty to
14 protect his interest.

15 This clearly -- again, he seeks counsel's
16 removal from the case. This clearly is not -- I'm
17 going to summarily deny that as well. Clearly,
18 Equifax does not represent Mr. Donahue, and it really
19 doesn't owe him any duty of loyalty. In fact,
20 Mr. Donahue technically is adverse to Equifax and to
21 the interest that they must look out for, which is for
22 any shareholders or other individuals.

23 He clearly retains his right to object to the
24 settlement. There's no really legal basis or factual
25 basis for him to do so, however, and, once again, he

1 can still maintain a cause of action on any individual
2 claim he might want to bring with respect to his own
3 credit experience.

4 His motion to continue the case to implement
5 sanctions is certainly denied. He requests a 365-day
6 continuance to fully inform the settlement class
7 members of their right to object, and, clearly,
8 although it is a low number of objections that have
9 been received in this case, the high amount of
10 responses, which I will address later, suggest that
11 there is plenty of notice with respect to the class
12 circumstances itself, and the fact that there are a
13 number of objections indicates that the notice is
14 adequate for that, including Mr. Donahue's own notice.
15 And so the notice to continue is denied.

16 He did ask to attend a fairness hearing under
17 different circumstances. And the Court found his
18 filings adequate for purposes of this hearing itself,
19 and he did not seek in any other way any other measure
20 to attend the hearing electronically given that his
21 filing was also in tandem with the filing requesting
22 defense counsel to pay his travel, lodging, board,
23 spending cash, dry cleaning, and the cost of
24 purchasing two business suits and numerous
25 accessories. The Court certainly denies those motions

1 and saw no follow-up otherwise. And he adequately
2 presented his position in his papers so that no
3 further oral argument was required, nor did he
4 separately request it.

5 He did ask for \$5,000 in legal fees, and
6 given that Mr. Donahue's objections appear to have no
7 merit, the Court is denying his request for pro se
8 legal fees to the extent it is even available under
9 the law. So Mr. Donahue's objections are overruled.

10 Mr. Daniel Rubin objected essentially because
11 there was no cash option, and the Court is overruling
12 his objection. The fact that the class members cannot
13 choose a cash option over the injunctive relief,
14 specifically whether or not they can earn \$270 rather
15 than have an option to receive this credit monitoring,
16 is overruled largely because of the preservation of
17 the personal cause of action that any individual class
18 member can bring.

19 They do not release any claims for actual
20 damages, and so to the extent Mr. Rubin or others
21 believe they are entitled to it is not a basis to
22 object to this because they are in fact, through this
23 class, getting benefits in addition to what could be
24 any cash benefits that they think they are entitled to
25 under the law.

1 Ms. Kelly Roosa objects essentially on bases
2 that are objections to issues that she has with the
3 credit reporting agencies or industry in general, and
4 speaks largely of what appears to be a mortgage
5 transaction that caused her financial hardship. And
6 while the Court understands or at least takes note of
7 Ms. Roosa's concerns and the nature of what she says
8 that the public was duped and found left with big debt
9 and no income, these are not factors that are raised
10 in this class at all, and it is not the purpose of
11 this class or remotely within the scope of this class
12 to address the issues that she raises in her
13 September 20th letter at ECF No. 43, and so that
14 objection will be overruled as well.

15 I'll note on the record that Mr. Rubin's
16 objection was ECF No. 42, and he appears to have
17 signed his objection on September 6.

18 The next objection that the Court will take
19 up is that of Mary Lynn Cords. That's ECF No. 45.
20 And she appears to have filed it on or about
21 September 26 of 2016. The upshot is that she's
22 objecting to receiving this 18-month subscription
23 saying it doesn't really amount to any benefit. I'd
24 rather get the settlement in cash of \$270. And for
25 the same reason that Mr. Rubin's objection is

1 overruled with that respect, Ms. Cords' objection will
2 also be overruled. She has not released, nor does
3 this class, or participation in this class release her
4 ability to seek any actual damage that she has
5 incurred.

6 Objection 52 from Edna Reed, which is dated
7 September -- excuse me. It's ECF No. 52, an objection
8 from Edna Reed, also raises the fact that there is no
9 cash option. That was filed on September 23rd, and
10 that is overruled for the reasons stated with respect
11 to the previous two objectors.

12 Mr. Bezer's objection, B-E-Z-E-R, ECF No. 53,
13 appears to be an objection largely based on attorney's
14 fees, that it must be based on the approximate value
15 of the settlement benefits for which the settlement
16 class members actually submit claims and seeking a
17 continuance to establish that. The Court will
18 overrule that objection for part of the reasons that
19 Mr. Bennett articulated here, which is that even if
20 the Court were to assess fees in proportion to the
21 value of the credit monitoring services that have been
22 activated already, the fee requested is within norms
23 that are established as appropriate and fair under
24 binding Fourth Circuit law and, as I will later find,
25 based on the facts of this case itself.

1 I also will note that the 30-day deadline as
2 far as objections which Mr. Donahue raised and which
3 Mr. Bezer raises is simply too short, both under the
4 facts of this case given the follow-up and the
5 adequacy of the notice, which I will make findings of
6 with respect to, but also under the law, which is
7 binding in this case.

8 And so for those reasons, Mr. Bezer's
9 objections will be overruled.

10 MS. SUMNER: Your Honor?

11 THE COURT: Yes.

12 MS. SUMNER: Just for the record, he actually
13 provided two objections and the second is document
14 No. 68.

15 THE COURT: Uh-huh. I think I need a copy of
16 document 68.

17 Right. So excuse me. Document No. 68 is
18 essentially what amounts to a reply from Mr. Bezer
19 where he again suggests that attorney's fees must be
20 based on the approximate value of the settlement
21 benefits, and here he is unhappy with, among other
22 things, that the benefits are non-monetary in nature.

23 Importantly, with respect to both Mr. Bezer
24 and with respect to Mr. Donahue, nothing in the
25 settlement prevents them from pursuing their own

1 monetary claims. And so for those reasons, the Court
2 is overruling both aspects, essentially his reply,
3 Mr. Bezer's reply, and Mr. Donahue's reply in ECF
4 No. 65 where he corrects what he thinks are some
5 issues that are brought up, which are nonmaterial, by
6 counsel in response to his objection, and also seeks
7 additional time for continuance for what he says is
8 the necessary notice using social media and other
9 means. And the Court will find for the reasons with
10 respect to the settlement itself, that that is
11 unnecessary and inappropriate given the nature of the
12 settlement. And so that will be overruled, that
13 objection as well.

14 With respect to Mr. Sweeney, which is
15 objection number -- it's ECF No. 55, Mr. Sweeney
16 raises issues as to timing. He wants assurance that
17 the settlement be carried out, and he indicates the
18 objection period is too short. He objects to the
19 amount of attorney's fees and that there is no cash
20 option.

21 First, counsel have established appropriately
22 that Mr. Sweeney appears to be an individual who
23 presents himself in a serial fashion to class cases.
24 Sometimes even when he is not a member of the class.
25 That at least provides insight into the nature of his

1 objections in the first place. But regardless of what
2 he has done in other cases and what other courts have
3 found with respect to his presentations in other
4 classes, the objections he lodges lack merit.

5 The Court will retain jurisdiction to enforce
6 the settlement agreement. The 30-day deadline is not
7 too short under the law or the facts of this case as
8 far as objections.

9 Any inability to speak in person at the
10 settlement itself or the telephone number does not
11 necessarily make it inadequate. He doesn't
12 necessarily provide a basis for suggesting that it
13 must be available and class counsel provide the
14 settlement class members with their firm's contact
15 information. And that, of course, is the most
16 important factor in assuring that the settlement be
17 adequately pursued and class members be assisted.

18 It is the case that counsel has stood here
19 and indicated the amount of time that they are willing
20 to put in as to individual cases and assistance that
21 they are offering to help, and it is the case that
22 this Court is aware that that will incur additional
23 time and services that the Court will find
24 appropriately calculated into the fees that are
25 assessed for this case.

1 Certainly, it is the case that the Court will
2 make finding as to the adequacy of the fees based on
3 the amount already of individuals expressing interest
4 and participating in the class. And as previously
5 found, it is not the case that the fact that the class
6 members did not receive cash is a basis for not
7 awarding fees or enforcing the settlement.

8 Class counsel here has obtained an injunction
9 based on a strongly negotiated settlement process with
10 an Eleventh Circuit judge under circumstances that the
11 Court will find to be well within the appropriate
12 factors under Rule 23 and class fairness principles,
13 and so for all of those reasons Mr. Sweeney's
14 objections will be overruled including, obviously, the
15 fact that the plaintiffs have negotiated a class where
16 individuals do not release their individual claims.

17 As far as I can tell, Mr. Robinson's
18 objection, ECF No. 56, amounts to an opt-out.
19 Ms. Blackman's objection, ECF No. 57, also appears to
20 be an opt-out, so not technically an objection.

21 The Court has Vionca Jason's acknowledging of
22 late objection but expressing her displeasure of the
23 attorney's fee award in comparison to the benefits
24 afforded to the settlement class members. She asks
25 the Court to reconsider the distribution of funds as

1 proposed, which even presuming the objection were
2 timely filed, the Court will not do so for the reasons
3 substantively that the Court finds that the class
4 settlement meets all the standards required for class
5 fairness and for appropriate administration of the
6 class members itself.

7 So those are all the objections that I have
8 lodged. Does that match with what counsel has?

9 MR. BENNETT: Yes, Your Honor, that's all
10 that we have as well.

11 THE COURT: All right. So as I have
12 indicated, I have reviewed thoroughly the filings that
13 you all have presented to me, and I am going to make a
14 finding that this class is appropriately settled.

15 I propose to enter an appropriate order to
16 that end, but it certainly is the case that this 15
17 U.S.C. 1681(g)(a)(2) class claim is appropriately
18 settled given the nature of the proposed settlement
19 that is before the Court.

20 The Court notes that as settlement
21 negotiations began, and were indeed finished before
22 Equifax filed an answer in this case, but the
23 memorandum in support of the motion for preliminary
24 approval for a class action that at all times during
25 the pendency of this case Equifax has vigorously

1 denied all claims asserted against it and continues to
2 do so in person with able counsel in this court
3 representing the interests of its clients and noting
4 on the record here that it continues to believe it is
5 a technical violation, but nonetheless is offering a
6 change of the business practice in order to move
7 forward in this case and in its business practices.

8 As far as a risk of continued litigation,
9 certainly the plaintiffs' risks include that continued
10 litigation would pose the risk associated with any
11 case, but the cost of the possibility of unfavorable
12 dispositions, and those risks are heightened by the
13 fact that there's not even an answer in this case, and
14 the parties would have to begin from square one if
15 they were to begin litigating at this point.

16 The defendants certainly have the same risks
17 that would be associated with the case, and so both
18 parties face an adverse result after years of working
19 on this case itself, and that is something the Court
20 takes into consideration as it views what the parties
21 have done.

22 This class is defined as all consumers in the
23 United States who within two years preceding the
24 filing of the action until the date of the preliminary
25 approval received a credit file of scores from Equifax

1 containing a public record. And I am prepared to make
2 extensive findings for purposes of enforcing the
3 settlement agreement, but the important aspects of
4 this are that it's potentially over 3.2 million
5 settlement class members and that each of the class
6 members who the parties are able to identify will
7 receive credit monitoring service, Equifax's leading
8 credit monitoring service, for a period of 18 months.
9 And that does amount to approximately \$270 worth of
10 services, and it includes unlimited and repeated
11 access to your credit report, which usually is not
12 unlimited and involves payment after you have received
13 at least one credit report. It does not require the
14 need for any claim forms or financial information, no
15 credit card needs to be given to activate the
16 subscription, which is an agreement that greatly
17 benefits consumers both as far as not having to turn
18 over financial information and making the signing up
19 process consumer friendly in that regard.

20 The parties have negotiated that they will
21 send out a secondary notice having already sent out
22 one notice at a cost of nearly \$800,000, and that
23 notice will provide those individuals, once this is
24 approved, appropriate and extensive information about
25 how to sign up for the monitoring service.

1 The plaintiffs and the defendants have
2 offered extensive information about how notice was
3 undertaken. It is clear that it was through a
4 separate settlement administrator, that there were
5 3.3 million names, 43,000 or a little more than that
6 were duplicative, that there were emails sent, and
7 then a separate summary class notice sent by regular
8 mail, and then those that were returned undeliverable
9 included over 50,000 names that had a forwarding
10 address and then were re-mailed.

11 Equifax also looked up for updated addresses
12 for undelivered notices and an additional more than
13 21,000 addresses were located, and the settlement
14 administrator established a website which had nearly
15 100,000 visits by October 18th of 2016.

16 This results in the settlement administrator
17 reporting a 97 percent effective delivery rate. The
18 cost of \$800,000 as to notice and administration was
19 paid by Equifax, and the class counsel has made itself
20 available to class members who have questions about
21 the settlement, and all of this service was considered
22 in how attorney's fees were negotiated. Given the
23 fact that the settlement includes a secondary notice,
24 certainly this meets all requirements of the law and
25 is an appropriate and fair notice as this Court has to

1 consider it.

2 Most importantly, the agreement does not
3 release any damage claims, and the only limitation
4 that is at bar is another FCRA class action and that
5 is not something that inures negatively enough or
6 hardly at all to render this to be an unfair
7 settlement under any factors that this Court has to
8 consider.

9 I am cognizant of the extensive amount of
10 settlement negotiations that the parties have
11 undertaken. The complaint was filed on July 28th of
12 2015. The case was stayed. There was a mediation
13 through October, November of 2015. An Eleventh
14 Circuit judge was engaged through the end of 2015 and
15 early 2016, and it looks as if there are at least two
16 mediations with Judge Birch in 2016.

17 We then held a joint motion for preliminary
18 approval in 2016. And the Court under extensive
19 findings made its preliminary approval order final in
20 July 7th of 2016 in an amended order.

21 Obviously, we have heard objections and we
22 are now at the fairness and adequacy portion of the
23 final hearing. Under 23(e), the claims and issues and
24 defenses must be considered under the Court's
25 approval, and the notice has been appropriately sent

1 out, and this Court in open hearing is now reviewing
2 the notice that has been sent out and the fairness of
3 the settlement itself.

4 Under the *Jiffy Lube* case, the Court must
5 consider fairness given the posture of the case at the
6 time the settlement was proposed, the extent of the
7 discovery, the circumstances surrounding the
8 negotiates and the experience of counsel, and the
9 adequacy of the settlement taking into consideration
10 the relative strength of the plaintiffs' case, the
11 assistance of any difficulties approved for strong
12 defenses that plaintiffs are likely to encounter if
13 the case were to go to trial, the anticipated duration
14 and extension of additional litigation, the solvency
15 of the defendants and the likelihood of recovery on a
16 litigated judgment, and the degree of opposition to
17 the settlement.

18 The Court has already made pretty significant
19 findings, but clearly the reasonableness of the method
20 of providing notice for the reasons stated earlier is
21 found to be well within the class action fairness
22 requirements, and given the effective delivery rate
23 that the cost of the notice is borne by Equifax and
24 has not affected the other aspects of the case, and
25 for the reasons earlier stated, the Court finds that

1 the notice is reasonably given.

2 It's certainly clearly and concisely stated
3 in plain and easily understood language based on a
4 review of the notice itself.

5 With respect to fairness, the Court has
6 already addressed that given the early nature of the
7 case, the parties chose to engage in, I am sure at
8 times hotly contested, negotiations especially given
9 the fact that the Court had to issue a record number
10 of stays so that the parties could continue to discuss
11 the matter. The parties have engaged in document
12 exchange, a thorough investigation of the facts and
13 the claims, and this case really is an upshot of a
14 series of other fully litigated cases including
15 against other providers that then suggest that the
16 parties have fully vetted the issues with respect to
17 the potential class members' interests.

18 With respect to the negotiations, they were
19 monitored by a retired judge of the Eleventh Circuit,
20 as indicated, and this Court is aware of Judge Birch's
21 expertise, and so I have no doubt that he kept both
22 parties on their toes with respect to assuring that
23 every factor was considered by both sides, and every
24 risk considered by both sides, and the ultimate
25 outcome reflects that.

1 In this courtroom are a series of attorneys
2 who are as experienced in this area of litigation as
3 may be available in the nation really on both sides,
4 and my having seen a series of these cases and these
5 litigants in these and other cases, the counsel
6 certainly provided experienced consult to their
7 clients and also positions with respect to the case at
8 bar.

9 As to adequacy, Equifax has disputed
10 plaintiffs' claims as indicated, and the class would
11 have been a numerous class that plaintiffs would have
12 had to try to manage either with respect to negligence
13 or willfulness and would have had to provide
14 sufficient evidence to a jury in order to prevail, and
15 that entails enough uncertainty that this class
16 certainly is adequate for purposes of the *Jiffy Lube*
17 factors.

18 Equifax has disputed the plaintiffs' claims
19 and the record otherwise reflects that Equifax was
20 represented by King & Spalding with litigators
21 experienced in this type of litigation, and both sides
22 have represented to this Court that this independent
23 and neutral mediator brought to each side an
24 indication of where their risks lay and brought into
25 account for them the difficulties of proof or defenses

1 that each side would have to bear.

2 The additional expenses that might be
3 incurred in litigation I have already addressed
4 including that it would have to start over, but also,
5 of course, we would have to undergo motions for class
6 certification, and for summary judgment, and possibly
7 even two-phase litigation including interlocutory
8 appeal or a different appeal at the end of the case.

9 Certainly, Equifax is solvent and can pay a
10 reasonable judgment, but in this case, given the size
11 of the class, and the fact that the plaintiffs were
12 operating under, and the defendants ultimately
13 agreeing to, a business change, the fact that must
14 incur an extensive amount of money, both setting it up
15 and continuing it over time, it is not clear to this
16 Court that a meaningful cash settlement on top of that
17 would have been appropriate.

18 Of the 3.1 million individuals in the class,
19 the Court sees only about seven objections. The
20 parties have notified the Court that only 176 class
21 members have opted out. And certainly that low level
22 of opposition given the high effort and successful
23 effort at notice that the parties have placed before
24 this Court certainly favors a finding of adequacy,
25 which this Court finds.

1 With respect to the \$2.8 million in
2 attorney's fees, the Court will approve that amount.
3 The Court notes that Equifax does not oppose the
4 amount, although Equifax is clearly not jumping up and
5 down at the amount, but it is an amount that is
6 appropriate given the nature of this case that is
7 before the Court.

8 First and foremost, it does not reduce the
9 recovery of the class, and that really is maybe nearly
10 all this Court has to say with respect to the amount
11 of attorney's fees, but it is a large amount of fees,
12 and it doesn't involve monetary relief to the
13 plaintiffs, and so the Court knows that in the Fourth
14 Circuit, attorney's fees in common fund cases are
15 typically awarded on a percentage of the recovery
16 basis.

17 Under the *Manuel v. Wells Fargo* case, at
18 least one Court has noted that the Court does have a
19 preference for a percentage method in addition to the
20 absence of any objection to the fee award. The Court
21 need not necessarily go through an exhaustive review
22 of each of the 12 lodestar factors, and I will not do
23 so for purposes of this case. Having selected a
24 percentage method, the Court must determine the
25 reasonableness of counsel's request with respect to

1 the amount that they are seeking.

2 And here the settlement value is essentially
3 a \$270 settlement value per class member of the credit
4 monitoring. The cost of notice, the value which is
5 hard to assess, frankly, of the changes to Equifax's
6 policies but may be the greatest upshot of the
7 settlement for purposes of consumer litigants and the
8 attorney's fees forfeited in helping class members to
9 resolve the disputes beyond the litigation, which this
10 Court takes these lawyers well at their word that that
11 will involve as much time as it requires per consumer
12 who calls in.

13 So even if the Court were to assess, as I've
14 already stated, the settlement value conservatively,
15 even assuming that only 5 percent of the class will
16 actually activate the service, the fee sought will be
17 less than 10 percent of the settlement of the value
18 obtained.

19 The class counsel has agreed to forgo any
20 Equifax class action in the future with respect to, or
21 at least for a year, with respect to this very case,
22 and if the Court were to require it, the lodestar
23 method of the total fee incurred would be based on the
24 affidavits that I have in front of me, approximately
25 \$750,000, and the \$2.8 million settlement would

1 reflect a multiplier, if the Court were to undertake
2 that evaluation, between three and four. And even
3 that would be reasonable and within the range of
4 similar awards in similar cases.

5 So the Court certainly finds that the
6 2.8 million agreed upon figure, especially given that
7 it was negotiated separately and apart from the class
8 settlement agreement itself, reflects a reasonable and
9 appropriate fee award in this case.

10 Finally, the service awards represent the
11 representative plaintiffs' work and their support of
12 the class as well as their promotion of the public
13 interest, and the class representatives here have
14 learned the theories of the law suit and have been
15 kept abreast of the status and have reviewed
16 documents, and certainly the cases cited by
17 plaintiffs' counsel demonstrate that 5,000-dollar per
18 plaintiff service awards are regularly approved in the
19 Eastern District of Virginia, and the Court will make
20 that award in this case as well.

21 So I am prepared to enter for the reasons
22 stated from the bench and the reasons articulated
23 elsewhere your final proposed approval order.

24 Is there anything else that the Court needs
25 to undertake?

1 MR. BENNETT: The plaintiff doesn't believe,
2 Your Honor.

3 MS. SUMNER: No, Your Honor. Thank you very
4 much.

5 THE COURT: All right. Well, I, once again,
6 am impressed by the counsel who have appeared in this
7 case. Certainly I believe I said the same thing
8 during your preliminary approval order hearing, and I
9 reiterate it again.

10 It is rare that you can go through a series
11 of documents, which I also do pretty thoroughly, and
12 see this level of work that has amounted to what I
13 honestly find and believe to be a just resolution of a
14 case.

15 I think that in the end, my hope is that
16 Equifax will think that this change in policy is a
17 good one from a business perspective, it is certainly
18 a just one for the plaintiffs who are included in the
19 class, and that there are 3 million individuals who
20 can benefit from it, but who have also not otherwise
21 given up any other claim they may have strikes me as
22 exactly what our civil justice system is meant to
23 accomplish.

24 So I appreciate your hard-fought and
25 thoughtful outcome, and I will enter the approval

1 order, and I wish you well.

2 MR. BENNETT: Thank you, Judge.

3 MS. SUMNER: Thank you, Your Honor.

4 MR. BENNETT: Your Honor, I didn't -- you
5 already met Jim Francis.

6 THE COURT: Yes.

7 MR. BENNETT: I was rude in not pointing out
8 his trip from Philadelphia. You already know Kristi
9 Kelly who is busy beating our firm out as the top
10 consumer law firm in Virginia, and my partner Matt. I
11 don't know if you met Craig Marchiando, who he used to
12 work for Caddell & Chapman, the well-dressed counsel I
13 had in the *Barry* settlement conference, but he now
14 works for us. And we have for some reason a federal
15 public defender sitting here, who I think we're trying
16 to lure.

17 THE COURT: So there's poaching going on
18 everywhere.

19 Well, it's great to meet you all. I do want
20 to shake your hands and thank you for your time.

21 (Shaking hands.)

22 THE COURT: Thank you all very much. Have a
23 good afternoon.

24 (The proceedings were adjourned at 3:30 p.m.)
25

1 I, Diane J. Daffron, certify that the foregoing is
2 a correct transcript from the record of proceedings
3 in the above-entitled matter.

4 /s/

5 _____
6 DIANE J. DAFFRON, RPR, CCR

7 _____
8 DATE